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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,416	02/11/2004	Hsing-Chi Hsieh	2001075	4325

7590 11/30/2004

Keith Kline
PRO-TECHTOR INTERNATIONAL SERVICES
20775 Norada Court
Saratoga, CA 95070-3018

EXAMINER


BASINGER, SHERMAN D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/777,416	Applicant(s) HSIEH, HSING-CHI	
	Examiner Sherman D. Basinger	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5 and 6 is/are rejected.
- 7) ☒ Claim(s) 4 and 7-9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Wolfe.

Wolfe discloses a fin 110, 112 with a blade having adjustable closed area,

comprising:

a blade being lengthwise split into a plurality of

sub-blades 114, 116 so that said sub-blades are separated from

one another from an outer end of said blade to a near

central point of said blade; and

at least one zipper 122 being located between two said

sub-blades that are adjacent to each other, said zipper

being adapted to zip up for said adjacent sub-blades

to provide a closed area, and said closed area being

adjustable by zipping up said zipper by different

length to thereby regulate a propulsive force that

may be produced by said blade of said fin.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolfe in view of Hetzel et al.

Wolfe does not disclose the zipper as including two toothed zipper tapes that may be closed to or separated from each other; a pull tab connected to said toothed zipper tapes for closing or separating said two zipper tapes; and a plastic frame connected to two lateral sides and an inner end of said zipper tapes with an outer periphery of said plastic frame connected to two adjacent edges of said two adjacent sub-blades.

Hetzel discloses attaching a zipper to a plastic body. Note that the blades of Wolfe are plastic bodies-see column 4, line 41.

Hetzel et al discloses the zipper A as including two toothed zipper tapes 10, 10 that may be closed to or separated from each other; a pull tab 11 connected to said toothed zipper tapes for

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closing or separating said two zipper tapes;
and a plastic frame 16 connected to two lateral sides and
an inner end of said zipper tapes with an outer
periphery of said plastic frame connected to two
adjacent edges of the plastic sheet 17.

In view of the teachings of Hetzel et al it would have been obvious at the time the
invention was made to a person having ordinary skill in the art to which said subject
matter pertains to provide the zipper of Wolfe with two toothed zipper tapes similar to 10
and 10 of Hetzel et al that may be closed to or separated from each other;
a pull tab similar to 11 of Hetzel et al connected to said toothed zipper tapes for
closing or separating said two zipper tapes;
and a plastic frame similar to 16 of Hetzel et al connected to two lateral sides and
an inner end of said zipper tapes with an outer
periphery of said plastic frame connected to two
adjacent edges of said two adjacent sub-blades of Wolfe.

Motivation to do so is to attach the zipper to the sub-blades of Wolfe without stitching if
desired.

With regard to the limitation of claim 2 of said zipper being connected
to said blade by positioning said zipper in a mold
used to mold said blade, so that said plastic frame
of said zipper is integrally connected to said two

adjacent sub-blades, this limitation is a process for the product. Even though product by process claims are limited by and defined by the process, determination of patentability is based on the product itself. If the product in the product by process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the product was made by a different process (MPEP 2113).

Wolfe does not disclose wherein said toothed zipper tapes are connected to said plastic frame by sewing. However, Hetzel et al discloses that it is well known to sew a zipper to the plastic material-see column 2, lines 61-62. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to sew the zipper provided to Wolfe to the plastic frame provided to Wolfe in addition to welding it to the frame. Motivation to do so is to more securely fix the zipper to the frame.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wolfe in view of Nelson.

Wolfe does not disclose a locating mechanism provided between the zipper 122 and the adjacent sub-blades 114 and 116.

Nelson discloses locating mechanism 20.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide a locating mechanism similar to 20 of Nelson between the zipper 122 and the adjacent sub-blades

114 and 116. Motivation to do so can be found in column 2, first full paragraph of Nelson.

Allowable Subject Matter

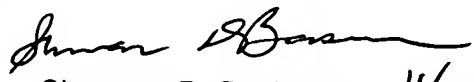
6. Claims 4 and 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 703-308-1139. The examiner can normally be reached on M-F (6:00-2:30 ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sherman D. Basinger 11/24/04

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